



DEPARTMENT OF ENERGY

Southwestern Power Administration

2021 Continuation of Temporary Power Sales Program

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice that new applications will be accepted for the Southwestern Power Administration Temporary Power Sales Program for 2021.

SUMMARY: Southwestern Power Administration (Southwestern) is accepting new applications under its Temporary Power Sales Program for 2021. Electric utility organizations interested in participating in the Temporary Power Sales Program should notify Southwestern of their interest by providing the information requested in the enclosed Resource Data Form B-2 and/or Resource Data Form L-2 to Southwestern.

DATES: Completed forms (Resource Data Form B-2 and/or Resource Data Form L-2) will be accepted beginning on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*] and ending on [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Completed forms and any questions or comments should be submitted to Ms. Fritha Ohlson, Senior Vice President and Chief Operating Officer (COO), Southwestern Power Administration, U.S. Department of Energy, 1 W 3rd St, Suite 1600, Tulsa, Oklahoma 74103.

FOR FURTHER INFORMATION CONTACT: Ms. Fritha Ohlson, Senior Vice President/COO, 918-595-6684 or email: fritha.ohlson@swpa.gov.

SUPPLEMENTARY INFORMATION: Southwestern markets hydroelectric power pursuant to section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s) from 24 multi-purpose reservoir projects operated by the U.S. Army Corps of Engineers. These projects are located in Arkansas, Missouri, Oklahoma, and Texas. The Southwestern marketing area includes these states, plus Kansas and Louisiana.

Program Background

On June 18, 1987, Southwestern implemented its Temporary Power Sales Program, hereinafter referred to as “the Program” (52 FR 23206). The notice implementing the Program is hereinafter referred to as “the 1987 FRN.” The Program allows existing Southwestern customers to make all or a portion of their allocated federal hydroelectric power and energy from Southwestern (allocation) available to Southwestern for temporary sale to others in the following priority: (1) public body and cooperative electric utility systems that are present or potential customers (including joint action agencies and any other public body and/or cooperative electric utility organizations that may be able to distribute the benefits of federal hydroelectric power and energy to said public body and cooperative electric utility systems), and (2) electric utilities other than public body and/or cooperative electric utility systems to be selected if no public body or cooperative electric utility systems are available to purchase such federal hydroelectric power and energy. See 52 FR at 23206 at 23207. Entities participating in the Program are referred to as “loaners” and “borrowers.”

In response to the 1987 FRN, Southwestern received nine borrower applications and two loaner applications within the period of notice of the 1987 FRN, which began June 18, 1987 and ended August 31, 1987. Of the applications received, Southwestern made one match between two loaners and one borrower for a total of 0.7 megawatts (MW) for a term to continue on a year-to-year basis until terminated by the loaner, the borrower, or Southwestern. (The match was ultimately dissolved on August 17, 2005.)

On October 14, 1988, Southwestern sent a letter to its customers soliciting additional interest in the Program and indicating Southwestern’s intention to maintain electric utility data on a biennial basis, with the lists of loaners and borrowers to be renewed every two years.

In response to the October 14, 1988 letter, Southwestern received two additional borrower applications and no additional loaner applications. Implementation of the Program continued with two internal memoranda to the file, the first dated August 9, 1989, and the second

dated January 17, 1992. These memoranda summarized the results of two separate reviews. Both reviews acknowledged minimal interest in the Program but recommended continuing the Program pending the results of future reviews. Records indicate that no additional reviews occurred until 2019.

2019 Review and Summary

Southwestern initiated its 2019 review of the Program after receiving an offer for a loan from the Southwestern customers receiving the output of the Robert D. Willis Hydropower Project (Willis). These customers offered all capacity and energy from Willis for loan for a duration to be determined.

In response to the loan offer, Southwestern contacted the six remaining participants in the Program to solicit their interest in the output of Willis. All six participants declined.

On October 25, 2019, Southwestern announced a continuation of the Program, including a call for new applicants (84 FR 57410). The 2019 notice continuing the Program is hereinafter referred to as “the 2019 FRN.” Southwestern received 20 applications within the period of notice of the 2019 FRN, which began October 25, 2019 and ended December 9, 2019. Of the applications received, Southwestern matched two pairs of loaners and borrowers: one for 2.0 MW for a ten-year term, and one for 1.6 MW for a seven-year term.

Southwestern also received applications after the period of notice with the understanding that the applications may be eligible for matching in the interim period between biennial reviews. In November 2020, Southwestern determined that it would postpone consideration of these interim applications until the 2021 review. Applicants were notified of this decision by letter dated December 7, 2020, which also informed the applicants that their applications would remain on file.

Summary of Matching Methodology

Records indicate that, prior to the 2019 review, there appeared to be no formal matching methodology other than consideration of preference entity status, chronological receipt, and

acceptance of applications on an ad hoc basis. For the 2019 review, Southwestern analyzed its existing marketing documents and identified main principles that occurred throughout, including preference entity status; distribution by state; widespread use; transmission; and chronological receipt. Since the concept of preference entity status is established in statutory authorities and within the Program itself, it was considered first and foremost before applying the other principles.

After determining preference entity status, and starting with the principle that occurred the most and working down the list, Southwestern ranked the borrowers according to how well their respective applications matched a given principle. For example, if a borrower was located in the same state as a lender, that borrower got a credit for the “distribution by state” principle. This procedure was followed until ties were broken between potential borrowers.

2021 Review and Proposed Program Change

Although Southwestern will continue to apply the principles established in the 2019 review to its 2021 review, Southwestern has identified a need to further clarify how it establishes “chronological receipt.” For the purposes of the 2021 matching process, Southwestern will determine chronological receipt as follows:

1. The six entities currently considered active under the 1987 FRN will have a chronological receipt date assigned in one of two ways: If an entity submitted a new application under the 2019 FRN, that entity’s application will be assigned the chronological receipt date of the new application. If an entity did not submit a new application under the 2019 FRN, that entity’s existing application will be assigned a new chronological receipt date of April 6, 2021, which is the date Southwestern began its 2021 review.

2. All entities that submitted applications under the 2019 FRN during the period of notice and that have not voluntarily withdrawn their respective applications will remain in the Program with their original chronological receipt dates.

3. All entities that submitted applications outside the period of notice of the 2019 FRN will remain in the Program with their original chronological receipt dates.

4. All entities that submit new applications in response to this *Federal Register* notice will be assigned new chronological receipt dates that will supersede any previous receipt date.

At the conclusion of the 2021 matching process, Southwestern intends to implement the following changes to simplify the Program, increase transparency, and reduce unnecessary confusion:

1. All unmatched applicants will be withdrawn from the Program and are free to re-apply during any future period of notice.

2. Southwestern will no longer consider applications submitted outside the period of notice of this or any future *Federal Register* notice.

Procedures for Applying to the Program

Interested parties are requested to complete Resource Data Forms containing information pertinent to the Program. The Resource Data Forms will be accepted during the period of notice specified in this *Federal Register* notice (see **DATES**). Resource Data Forms received after that period will not be accepted. Receipt date of a Resource Data Form will be based on the earliest date Southwestern received the transmittal instrument conveying the Resource Data Form: for example, the earlier of the “Received” date of an email if conveyed through email; the received date stamp from Southwestern’s mail room of a hard copy letter if conveyed through the U.S. Mail; or the received log date from Southwestern’s mail room of a package or letter if conveyed through a delivery service or certified U.S. Mail.

Each applicant will be sent a confirmation from Southwestern of the receipt of its application, and the confirmation will include the entity name to be associated with the application, the loan or borrow details, and the date of receipt. Applicants will be asked to concur with the confirmation in writing.

Following the 2021 matching process, notification of the results will be sent to all applicants. The notification will include a summary of matches made, a notification that all applications are withdrawn from the Program as of the date of the notification, and an announcement that new applications will be solicited via *Federal Register* notice following the next review, tentatively scheduled for 2023.

Submission of Resource Data Forms in no way obligates an applicant to loan or borrow under the Program. If a match is identified, Southwestern will work with the loaner and borrower to document the sale. Conversely, submission of Resource Data Forms in no way obligates Southwestern to make any sales under the Program. Such sales will be made at the sole discretion of Southwestern.

Allocations made available to Southwestern under the Program will be sold on a temporary basis, and for an initial period of not less than one (1) year, provided the selected borrower(s) have, or must be able to arrange, the transmission rights to receive such federal hydroelectric power and energy.

Therefore, in accordance with the priority expressed herein, Southwestern is hereby issuing this “Notice that new applications will be accepted for the Southwestern Power Administration Temporary Power Sales Program.”

Electric utility organizations interested in participating in the Program should notify Southwestern of their interest by providing the information requested in the enclosed Resource Data Form B-2 and/or Resource Data Form L-2 to Southwestern (see **DATES**). To assist Southwestern in best matching loaners and borrowers, applicants are encouraged to use the “Additional information” section at the bottom of the forms to describe specific resources they want to borrow or loan. Fillable versions of these forms will also be made available on the Southwestern web site at <https://www.swpa.gov>.

Based on the responses received, Southwestern, at its sole discretion, may elect to hold one or more public meetings to afford all responders equal opportunity to have their responses addressed.

Environmental Impact

Southwestern previously determined that the action of creating the Program and accepting new applications thereunder does not have a significant effect on the environment since peaking sales made under the Program will merely replace other peaking sales and resulting reservoir operations will not be affected. Southwestern has further determined that the action fits within the class of categorically excluded actions as listed in appendix B to subpart D of 10 CFR part 1021, DOE's Implementing Procedures and Guidelines of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321-4347): Categorical exclusions applicable to B4.1, "Contracts, policies, and marketing and allocation plans for electric power," and B4.4, "Power marketing services and activities." On May 26, 2021, Southwestern determined that categorical exclusions B4.1 and B4.4 apply to the current action.

Signing Authority

This document of the Department of Energy was signed on August 30, 2021, by Mike Wech, Administrator, Southwestern Power Administration, pursuant to delegated authority from the Secretary of Energy. That document, with the original signature and date, is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of DOE. This administrative process in no way alters the legal effect of this document upon publication in the *Federal Register*.

Signed in Washington, DC, on September 1, 2021

Treena V. Garrett,
Federal Register Liaison Officer,
U.S. Department of Energy.

Southwestern Power Administration (SWPA)

Hydroelectric Power Borrowing Program

Resource Data Form B-2

Name of Utility System _____

Address _____

Utility Manager _____

Telephone Number _____

1. Is your utility interested now, or in the near future, in borrowing Federal hydroelectric power that is available for loan on a temporary basis for distribution by SWPA?

Federal Capacity
Only

[] Yes [] No

Federal Energy
Only

[] Yes [] No

Both Federal Capacity
and Federal Energy

[] Yes [] No

2. If yes, please indicate the quantities and types of Federal hydroelectric power your utility would be interested in borrowing and the desired time frames.

Federal
Capacity Only
kW

Quantity _____

Federal
Energy Only
kWh

Both Federal
Capacity and Energy
kW kWh

Start Borrowing (Day, Month, Year) _____

Stop Borrowing (Day, Month, Year) _____

Additional information (optional): _____

3. Does your utility have the transmission rights or is your utility able to arrange the transmission rights to receive Federal hydroelectric power from SWPA?

[] Yes [] No

If yes, describe the transmission rights in detail. _____

Southwestern Power Administration (SWPA)

Hydroelectric Power Loaning Program

Resource Data Form L-2

Name of Utility System _____

Address _____

Utility Manager _____

Telephone Number _____

1. Does your utility presently have, or expect to have in the near future, Federal hydroelectric power that is available for loan on a temporary basis for distribution by SWPA?

Federal Capacity
Only

[] Yes [] No

Federal Energy
Only

[] Yes [] No

Both Federal Capacity
and Federal Energy

[] Yes [] No

2. If yes, please indicate the quantities and types of Federal hydroelectric power your utility is willing to loan and the time frames available.

Federal
Capacity Only
kW

Federal
Energy Only
kWh

Both Federal
Capacity and Energy
kW kWh

Quantity _____

Begin Loan (Day, Month, Year) _____

End Loan (Day, Month, Year) _____

Additional information (optional): _____

